



March 12, 2024

Dr. Jennifer Tucker  
Agricultural Marketing Service  
United States Department of Agriculture  
1400 Independence Avenue SW  
Mail Stop 0268, Room 2648-S  
Washington DC 20250-0268

**RE: Legal complaint and request for action regarding clear conflict of interest exhibited by Oregon Tilth (certifying under Oregon Tilth Certified Organic – OTCO)**

Dear Dr. Tucker,

In 2002, with final implementation of the federal organic certification standards under the National Organic Program (NOP), the USDA determined that accredited certification agencies must be free from conflict of interest.

Certification structures, systems, and processes were meant to be independent and objective, not influenced by membership, member revenues or acreage, size of certification fees, or other close connections.

- Oregon Tilth Inc. is a 501(c)(3) non-profit corporation, yet ninety-three percent of Oregon Tilth's revenues come from fees paid for certification services to farmers and agribusiness, through certification as Oregon Tilth Certified Organic (OTCO).
- Huge industrial organic operations are paying large certification fees to Oregon Tilth Inc. that support the organization's advocacy and lobbying at state and federal levels; lobbying that is directly paid for and potentially subject to influence by these industrial organic operations which include some of the country's largest CAFOs, and big hydroponic growers.
- Despite the need for separation between certification services, corporate management, and advocacy and lobbying to prevent conflicts of interest, Oregon Tilth Inc. remains a single corporate structure.

- As a single entity, Oregon Tilth, Inc., has an executive management team, one board of directors, and shared website, physical location, and contact information – including a single email domain: tilth.org.
- Although prohibited under the statutes governing organic certifiers, we have documented Oregon Tilth accepting contributions and sponsorships from clients they are certifying.

**We respectfully request that your office thoroughly investigate and take appropriate enforcement action to address clear violations of the NOP requirements for accreditation of Oregon Tilth Inc. for failing to prevent the risk of conflict of interest by separating Oregon Tilth Certification Services Program (providing Oregon Tilth Certified Organic (OTCO) certification) from the legal and business operation of Oregon Tilth Inc.**

### **Alleged Violations of the NOP Requirements for Accreditation to Avoid Conflicts of Interest**

The § 205.501 General requirements for accreditation,<sup>i</sup> (a)(11) seeks to prevent conflicts of interest by separating any relationship between the operation seeking organic certification and anyone connected with the accredited certifier who might have had a business or consulting relationship with the application operations in the last 12 months, however we believe additional and numerous conflicts of interest lie within and between the two closely related groups consisting of Oregon Tilth Inc. and the Oregon Tilth Certification Services Program (providing certification as Oregon Tilth Certified Organic – OTCO).

### **Physical Address and Contact Information**

Oregon Tilth Inc., and the staff and management of Oregon Tilth Certification Services program (providing certification as Oregon Tilth Certified Organic (OTCO) share the following addresses and contact information.

2525 SE 3rd Street Corvallis, OR 97333  
 PO Box 368, Corvallis, OR 97339  
 Phone: (503) 378-0690  
 Toll Free: (877) 378-0690  
 Email: organic@tilth.org

### **The Organic Foods Production Act gives the NOP the authority to take such action:**

Code of Federal Regulations, Title 7 (Agriculture), Subtitle B (Regulations for the Department of Agriculture), Chapter 1 (Agricultural Marketing Service)

§ 205.501 General requirements for accreditation.<sup>ii</sup>

(a)(11) Prevent conflicts of interest by:

- (i) Not certifying a production or handling operation if the certifying agent or a responsibly connected party of such certifying agent has or has held a commercial interest in the production or handling operation, including an immediate family interest or the provision of consulting services, within the 12-month period prior to the application for certification;
- (ii) Excluding any person, including contractors, with conflicts of interest from work, discussions, and decisions in all stages of the certification process and the monitoring of certified production or handling operations for all entities in which such person has or has held a commercial interest, including an immediate family interest or the provision of consulting services, within the 12-month period prior to the application for certification;
- (iii) Not permitting any employee, inspector, contractor, or other personnel to accept payment, gifts, or favors of any kind, other than prescribed fees, from any business inspected: *Except*, That, a certifying agent that is a not-for-profit organization with an Internal Revenue Code tax exemption or, in the case of a foreign certifying agent, a comparable recognition of not-for-profit status from its government, may accept voluntary labor from certified operations;
- (iv) Not giving advice or providing consultancy services, to certification applicants or certified operations, for overcoming identified barriers to certification;
- (v) Requiring all persons who review applications for certification, perform on-site inspections, review certification documents, evaluate qualifications for certification, make recommendations concerning certification, or make certification decisions and all parties responsibly connected to the certifying agent to complete an annual conflict of interest disclosure report; and
- (vi) Ensuring that the decision to certify an operation is made by a person different from those who conducted the review of documents and on-site inspection.

## **Conclusion**

Clearly there is no true independence for the certification operation within Oregon Tilth Inc., as ninety-three percent of Oregon Tilth's revenues come from fees paid for certification services by farmers and agribusiness.

Those revenues pay all corporate expenses as well as fund lobbying efforts that are at risk of influence by huge industrial organic operations including some of the country's largest CAFOs and hydroponic growers. Furthermore, certification revenue pays for the Organic Tilth membership dues and contributions to the leading industry lobby group, the Organic Trade Association. The Oregon Tilth Managing Director currently sits on the OTA board.

**OrganicEye requests that the NOP's Compliance and Enforcement Branch make a timely, full, and good faith effort in their investigation of these allegations and bring the alleged conflict of interest across Oregon Tilth Inc. to an end.**

We would encourage National Organic Program investigators to visit the OrganicEye [website](#) where a news release announcing this complaint can be found by clicking on the "News" and then on the "OrganicEye News" option. Our research documenting the aforementioned corporate behavior by Organic Tilth is well documented in the release and in linked documents.

It should be noted that nothing in this formal complaint shall be interpreted as a waiver of our right to appeal under the Adverse Action Appeals Process.

Sincerely,

Mark Kastel  
Executive Director

OrganicEye  
PO Box 8  
La Farge, WI 54639

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<sup>i</sup> See Code of Federal Regulation, <https://www.ecfr.gov/current/title-7/part-205/subpart-F>

<sup>ii</sup> See Code of Federal Regulation, <https://www.ecfr.gov/current/title-7/part-205/subpart-F>